

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0087-AIR-E **TCEQ ID:** RN100234681 **CASE NO.:** 32173
RESPONDENT NAME: Rescar, Inc.

Page 1 of 3

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Rescar Orange Facility, 1993 Foreman Road, Orange, Orange County</p> <p>TYPE OF OPERATION: Railcar repair and painting</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 11, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. John Muennink, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3423; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896 Respondent: Mr. David Kraker, Vice-President, Rescar, Inc., 407 West Brentwood Street, Channelview, Texas 77530 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: November 7, 2006</p> <p>Date of NOE Relating to this Case: January 5, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. Eight violations were documented.</p> <p>AIR</p> <p>1) Failed to submit deviation reports for the July 27, 2005 through July 26, 2006 compliance period [30 TEX. ADMIN. CODE § 122.145(2)(A) and (2)(B), Federal Operating Permit ("FOP") No. 1532, SC 1A, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to maintain complete records. For the July 27, 2005 through July 26, 2006 period Rescar failed to maintain records and reports on each of the abrasive blasting facilities representing the monthly new additions of blast media and the total of new blast media additions over the calendar year for either of the two facilities [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 18226, SC 9(C) and 9(D)(3), FOP No. 1532, SC 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failed to produce monthly reports of volatile organic compound ("VOC") emissions for EPN 5. Records provided for the July 27, 2005 to July 26, 2006 period did not include records for the interior lining booths and bays ("EPN 5") for any month and no report for VOC emissions in tons per year over the previous 12-month period [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 18226, SC 9(D)(1), FOP No. 1532, SC 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$34,000</p> <p>Total Deferred: \$6,800 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$27,200</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that Rescar ceased adhesive coating operations onsite on July 15, 2006.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <ul style="list-style-type: none"> i. Submit unreported deviations for the July 27, 2005 to July 26, 2006 period on the next deviation report; ii. Begin record-keeping for both blast facilities; iii. Begin maintaining complete records of EPN 5 emissions, including on a 12-month rolling basis; iv. Begin maintaining proper documentation and electronic records on railcars entering the Plant; v. Begin preparing and maintaining monthly railcar cleaning reports; vi. Begin daily monitoring requirements on the CAU; and vii. Begin implementing site-wide maintenance and inspection work. <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.vii.</p>

4) Failed to maintain monthly reports on the coating lines. For the July 25, 2005 to July 26, 2006 period no records of adhesive usage were available, calculations were incorrect, and documentation of data, including tons per year VOC emissions for the 12-month period, was incomplete [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 18226, SC 9(D)(2), FOP No. 1532, SC 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

5) Failed to maintain documentation and electronic records as specified on each railcar entering the plant. Rescar did not maintain such records on railcars during the July 27, 2005 through July 26, 2006 period [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 19342, SC 12(C), FOP No. 1532, SC 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

6) Failed to comply with daily monitoring requirements for the Carbon Absorption Unit ("CAU"). For the July 27, 2005 to July 27, 2006 period no records were available and there was no methodology in place for compliance [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 19342, SC 7(A) and 7(D), FOP No. 1532, SC 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

7) Failed to establish and perform a site-wide maintenance and inspection program. Rescar has no established program; additionally, for the July 27, 2005 to July 27, 2006 period there are no records of visual inspections for leaks and equipment repairs [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 19342, SC 9, FOP No. 1532, SC 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

8) Failed to comply with the monthly reporting requirements on railcar cleaning. No monthly reports for the July 27, 2005 through July 26, 2006 period were available [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 19342, SC 12(D), FOP No. 1532, SC 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

DATES	Assigned	8-Jan-2007	Screening	10-Jan-2007	EPA Due	2-Oct-2007
	PCW	7-Feb-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Rescar, Inc.		
Reg. Ent. Ref. No.	RN100234681		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	32173	No. of Violations	8	
Docket No.	2007-0087-AIR-E	Order Type	1660	
Media Program(s)	Air Quality	Enf. Coordinator	John Barry	
Multi-Media		EC's Team	Enforcement Team 6	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$34,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0% Enhancement** **Subtotals 2, 3, & 7** **\$0**

Notes

No enhancement and no reduction due to average performer classification.

Culpability

No

0% Enhancement

Subtotal 4 **\$0**

Notes

Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 **\$0**

Before NOV NOV to EDRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

0% Enhancement*

Subtotal 6 **\$0**

Total EB Amounts \$1,628
Approx. Cost of Compliance \$11,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal **\$34,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount **\$34,000**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$34,000**

DEFERRAL

20%

Reduction

Adjustment **-\$6,800**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$27,200

Screening Date 10-Jan-2007

Docket No. 2007-0087-AIR-E

PCW

Respondent Rescar, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32173

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100234681

Media [Statute] Air Quality

Enf. Coordinator John Barry

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgments or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No enhancement and no reduction due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 10-Jan-2007

Docket No. 2007-0087-AIR-E

PCW

Respondent Rescar, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32173

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100234681

Media [Statute] Air Quality

Enf. Coordinator John Barry

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 122.145(2)(A) and (2)(B), FOP No. 1532, SC 1A, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit any deviation reports for the July 27, 2005 through July 26, 2006 compliance period.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

128 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$5,000

Two single events, one for each deviation report, are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$23

Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent Rescar, Inc.
Case ID No. 32173
Reg. Ent. Reference No. RN100234681
Media Air Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	25-Aug-2006	1-Aug-2007	0.9	\$23	n/a	\$23

Notes for DELAYED costs

Estimated costs of submission of corrected certification and deviation reports; the date required is the date reports were to be submitted; the final date is the estimated date the unreported deviations will be reported.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$23

Screening Date 10-Jan-2007

Docket No. 2007-0087-AIR-E

PCW

Respondent Rescar, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32173

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100234681

Media [Statute] Air Quality

Enf. Coordinator John Barry

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Air Permit No. 18226, SC 9(C) and 9(D)(3), FOP No. 1532, SC 7, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain complete records as required. For the July 27, 2005 through July 26, 2006 period Rescar failed to maintain records and reports for each of the abrasive blasting facilities representing the monthly new additions of blast media and the total of new blast media additions over the calendar year for either of the two facilities.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
		x	

Percent 10%

Matrix Notes

30% to 70% of the rule was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

365 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two single events, one for each facility, are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$101

Violation Final Penalty Total \$2,000

This violation Final Assessed Penalty (adjusted for limits) \$2,000

Economic Benefit Worksheet

Respondent Rescar, Inc.
Case ID No. 32173
Reg. Ent. Reference No. RN100234681
Media Air Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$1,000	27-Jul-2005	1-Aug-2007	2.0	\$101	n/a	\$101
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of maintaining blast media records and monthly reports; the date required was the first day of the reporting period; the final date is the estimated date that such record and report maintenance will begin.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$101

Screening Date 10-Jan-2007

Docket No. 2007-0087-AIR-E

PCW

Respondent Rescar, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32173

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100234681

Media [Statute] Air Quality

Enf. Coordinator John Barry

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Air Permit No. 18226, SC 9(D)(1), FOP No. 1532, SC 7, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to produce complete monthly reports of VOC emissions for EPN 5. Records provided for the July 27, 2005 to July 26, 2006 period did not include records for the interior lining booths and bays ("EPN 5") for any month and no report for VOC emissions in tons per year over the previous 12-month period.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
		x	

Percent 10%

Matrix Notes

30% to 70% of the rule was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$50

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Rescar, Inc.
Case ID No. 32173
Reg. Ent. Reference No. RN100234681
Media Air Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	27-Jul-2005	1-Aug-2007	2.0	\$50	n/a	\$50
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of maintaining records of EPN 5 emissions and yearly emissions report; the date required is the first day of the reporting period; the final date is the estimated date of beginning to maintain EPN 5 emissions records and yearly emissions reporting.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$50

Screening Date 10-Jan-2007**Docket No.** 2007-0087-AIR-E**PCW****Respondent** Rescar, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32173

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100234681**Media [Statute]** Air Quality**Enf. Coordinator** John Barry**Violation Number** 4**Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Air Permit No. 18226, SC 9(D)(2), FOP No. 1532, SC 7, and Tex. Health & Safety Code § 382.085(b)**Violation Description**

Failed to maintain complete monthly reports on the coating lines. For the July 25, 2005 to July 26, 2006 period no records of adhesive usage were available, calculations were incorrect, and documentation of data, including tons per year VOC emissions for the 12-month period was incomplete.

Base Penalty \$10,000>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
		x	

Percent 10%**Matrix Notes**

30% to 70% of the rule was not met.

Adjustment \$9,000

\$1,000

Violation Events**Number of Violation Events** 1365 **Number of violation days**mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation**Statutory Limit Test****Estimated EB Amount** \$547**Violation Final Penalty Total** \$1,000**This violation Final Assessed Penalty (adjusted for limits)** \$1,000

Economic Benefit Worksheet

Respondent Rescar, Inc.
Case ID No. 32173
Reg. Ent. Reference No. RN100234681
Media Air Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	27-Jul-2005	15-Jul-2006	1.9	\$47	\$500	\$547
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated costs of maintaining blast media records; the date required was the first day of the reporting period; the final date is the day coating operations on-site ceased.

Approx. Cost of Compliance

\$500

TOTAL

\$547

Screening Date 10-Jan-2007**Docket No.** 2007-0087-AIR-E**PCW****Respondent** Rescar, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32173

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100234681**Media [Statute]** Air Quality**Enf. Coordinator** John Barry**Violation Number** 5**Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Air Permit No. 19342, SC 12(C), FOP No. 1532, SC 7, and Tex. Health & Safety Code § 382.085(b)**Violation Description**

Failed to maintain documentation and electronic records as specified on each railcar entering the plant. Rescar did not maintain such records on railcars during the July 27, 2005 through July 26, 2006 period.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule was not met.

Adjustment \$7,500

\$2,500

Violation Events**Number of Violation Events** 1365 **Number of violation days**mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation**Statutory Limit Test****Estimated EB Amount** \$101**Violation Final Penalty Total** \$2,500**This violation Final Assessed Penalty (adjusted for limits)** \$2,500

Economic Benefit Worksheet

Respondent Rescar, Inc.
Case ID No. 32173
Reg. Ent. Reference No. RN100234681
Media Air Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$1,000	27-Jul-2005	1-Aug-2007	2.0	\$101	n/a	\$101
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of maintaining proper railcar records; the date required is the first day of the reporting period; the final date is the estimated date of beginning to maintain proper railcar records.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$101

Screening Date 10-Jan-2007

Docket No. 2007-0087-AIR-E

PCW

Respondent Rescar, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32173

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100234681

Media [Statute] Air Quality

Enf. Coordinator John Barry

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Air Permit No. 19342, SC 7(A) and 7(D), FOP No. 1532, SC 7, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with daily monitoring requirements for the Carbon Absorption Unit ("CAU"). For the July 27, 2005 to July 27, 2006 period no records were available and there was no methodology in place for compliance.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

		4	365	Number of violation days
mark only one with an x	daily			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			

Violation Base Penalty \$10,000

Four quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$252

Violation Final Penalty Total \$10,000

This violation Final Assessed Penalty (adjusted for limits) \$10,000

Economic Benefit Worksheet

Respondent Rescar, Inc.
Case ID No. 32173
Reg. Ent. Reference No. RN100234681
Media Air Quality
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$2,500	27-Jul-2005	1-Aug-2007	2.0	\$252	n/a	\$252
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of monitoring the CAU; the date required is the first day of the reporting period; the final date is the estimated date of beginning to properly monitor the CAU.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$252

Screening Date 10-Jan-2007

Docket No. 2007-0087-AIR-E

PCW

Respondent Rescar, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32173

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100234681

Media [Statute] Air Quality

Enf. Coordinator John Barry

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Air Permit No. 19342, SC 9, FOP No. 1532, SC 7, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to establish and perform a site-wide maintenance and inspection program. Rescar has no established program; additionally for the July 27, 2005 to July 27, 2006 period there are no records of visual inspections for leaks and equipment repairs.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

	4	365	Number of violation days
mark only one with an x	daily		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

Violation Base Penalty \$10,000

Four quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$503

Violation Final Penalty Total \$10,000

This violation Final Assessed Penalty (adjusted for limits) \$10,000

Economic Benefit Worksheet

Respondent: Rescar, Inc.
Case ID No.: 32173
Reg. Ent. Reference No.: RN100234681
Media: Air Quality
Violation No.: 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	27-Jul-2005	1-Aug-2007	2.0	\$503	n/a	\$503

Notes for DELAYED costs

Estimated costs of implementing a site-wide maintenance and inspection program; the date required is the first day of the reporting period; the final date is the estimated date of program implementation.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$503

Screening Date 10-Jan-2007

Docket No. 2007-0087-AIR-E

PCW

Respondent Rescar, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32173

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100234681

Media [Statute] Air Quality

Enf. Coordinator John Barry

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Air Permit No. 19342, SC 12(D), FOP No. 1532, SC 7, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the monthly reporting requirements on railcar cleaning. No monthly reports for the July 27, 2005 through July 26, 2006 period were available.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

12 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$50

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent: Rescar, Inc.
Case ID No.: 32173
Reg. Ent. Reference No.: RN100234681
Media: Air Quality
Violation No.: 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	27-Jul-2005	1-Aug-2007	2.0	\$50	n/a	\$50
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of maintaining railcar cleaning records; the date required is the first day of the reporting period; the final date is the estimated date of beginning to maintain proper records.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$50

Compliance History

Customer/Respondent/Owner-Operator:	CN600540751	Rescar, Inc.	Classification: AVERAGE	Rating: 2.31
Regulated Entity:	RN100234681	RESCAR ORANGE FACILITY	Classification: HIGH	Site Rating: 0.00

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	OC0054A
	AIR OPERATING PERMITS	PERMIT	1532
	AIR NEW SOURCE PERMITS	PERMIT	18226
	AIR NEW SOURCE PERMITS	PERMIT	19342
	AIR NEW SOURCE PERMITS	PERMIT	39970
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	OC0054A
	AIR NEW SOURCE PERMITS	AFS NUM	0026
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD000835215
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	32644
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD000835215
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	32644

Location: 1993 FOREMAN RD, ORANGE, TX, 77630

Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: January 09, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 09, 2002 to January 09, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: John Barry Phone: (409) 899-8781

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 08/29/2005 (400575)

N/A

2 02/22/2006 (451335)

3 03/14/2003 (21813)

4 12/29/2003 (257826)

5 07/30/2002 (5862)

6 01/05/2007 (533825)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
RESCAR, INC.
RN100234681**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0087-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Rescar, Inc. ("Rescar") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Rescar appear before the Commission and together stipulate that:

1. Rescar owns and operates a railcar repair and painting facility at 1993 Foreman Road in Orange, Orange County (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Rescar agree that the Commission has jurisdiction to enter this Agreed Order, and that Rescar is subject to the Commission's jurisdiction.
4. Rescar received notice of the violations alleged in Section II ("Allegations") on or about January 10, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Rescar of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Thirty-Four Thousand Dollars (\$34,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Rescar has paid Twenty-Seven Thousand Two Hundred Dollars (\$27,200) of the administrative penalty

and Six Thousand Eight Hundred Dollars (\$6,800) is deferred contingent upon Rescar's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Rescar fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Rescar to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Rescar have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Rescar ceased adhesive coating operations onsite on July 15, 2006.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Rescar has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, Rescar is alleged to have:

1. Failed to submit deviation reports for the July 27, 2005 through July 26, 2006 compliance period, in violation of 30 TEX. ADMIN. CODE § 122.145(2)(A) and (2)(B), FOP No. 1532, SC 1A, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 7, 2006.
2. Failed to maintain complete records, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 18226, SC 9(C) and 9(D)(3), FOP No. 1532, SC 7, and TEX. HEALTH & SAFETY CODE § 382.085(b) as documented during an investigation conducted on November 7, 2006. For the July 27, 2005 through July 26, 2006 period Rescar failed to maintain records and reports on each of the abrasive blasting facilities representing the monthly new additions of blast media and the total of new blast media additions over the calendar year for either of the two facilities.
3. Failed to produce monthly reports of volatile organic compound ("VOC") emissions for EPN 5, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 18226, SC 9(D)(1), FOP No. 1532, SC 7, and TEX. HEALTH & SAFETY CODE § 382.085(b) as documented during an investigation conducted on November 7, 2006. Records provided for the July 27, 2005

to July 26, 2006 period did not include records for the interior lining booths and bays ("EPN 5") for any month and no report for VOC emissions in tons per year over the previous 12-month period.

4. Failed to maintain monthly reports on the coating lines, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 18226, SC 9(D)(2), FOP No. 1532, SC 7, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 7, 2006. For the July 25, 2005 to July 26, 2006 period no records of adhesive usage were available, calculations were incorrect, and documentation of data, including tons per year VOC emissions for the 12-month period, was incomplete.
5. Failed to maintain documentation and electronic records as specified on each railcar entering the Plant, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 19342, SC 12(C), FOP No. 1532, SC 7, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 7, 2006. Rescar did not maintain such records on railcars during the July 27, 2005 through July 26, 2006 period.
6. Failed to comply with daily monitoring requirements for the Carbon Absorption Unit ("CAU"), in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 19342, SC 7(A) and 7(D), FOP No. 1532, SC 7, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 7, 2006. For the July 27, 2005 to July 27, 2006 period no records were available and there was no methodology in place for compliance.
7. Failed to establish and perform a site-wide maintenance and inspection program, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 19342, SC 9, FOP No. 1532, SC 7, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 7, 2006. Rescar has no established program; additionally for the July 27, 2005 to July 27, 2006 period there are no records of visual inspections for leaks and equipment repairs.
8. Failed to comply with the monthly reporting requirements on railcar cleaning, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 19342, SC 12(D), FOP No. 1532, SC 7, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 7, 2006. No monthly reports for the July 27, 2005 through July 26, 2006 period were available.

III. DENIALS

Rescar generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Rescar pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Rescar's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Rescar, Inc., Docket No. 2007-0087-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Rescar shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Submit unreported deviations for the July 27, 2005 to July 26, 2006 period on the next deviation report;
 - ii. Begin record-keeping for both blast facilities, in accordance with Air Permit No. 18226, SC 9(C) and 9(D)(3);
 - iii. Begin maintaining complete records of EPN 5 emissions, including on a 12-month rolling basis, in accordance with Air Permit No. 18226, SC 9(D)(1);
 - iv. Begin maintaining proper documentation and electronic records on railcars entering the Plant, in accordance with Air Permit No. 19342, SC 12(C);
 - v. Begin preparing and maintaining monthly railcar cleaning reports, in accordance with Air Permit No. 19342, SC 12(D);
 - vi. Begin daily monitoring requirements on the CAU, in accordance with Air Permit No. 19342, SC 7(A) and 7(D); and
 - vii. Begin implementing site-wide maintenance and inspection work, in accordance with Air Permit No. 19342, SC 9.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.vii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly

responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Quality Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon Rescar. Rescar is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If Rescar fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Rescar's failure to comply is not a violation of this Agreed Order. Rescar shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Rescar shall notify the Executive Director within seven days after Rescar becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Rescar shall be made in writing to the Executive Director. Extensions are not effective until Rescar receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Rescar in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

Rescar, Inc.

DOCKET NO. 2007-0087-AIR-E

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8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Rescar, or three days after the date on which the Commission mails notice of the Order to Rescar, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

JUN 22 2007 1:30PM

Fax: 3618253101

Recoar, Inc.

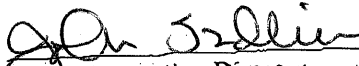
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

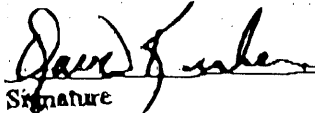
7/17/07

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

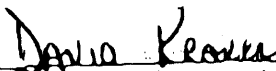
- A negative impact on my compliance history;
 - Greater scrutiny of any permit applications submitted by me;
 - Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
 - Increased penalties in any future enforcement actions against me;
 - Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
 - TCEQ seeking other relief as authorized by law.
- In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

6/22/07

Date



Name (Printed or typed)

Authorized Representative of
Recoar, Inc.VP. ASSETS & ENVIRONMENTAL
SERVICES

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

